

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.1084 OF 1997

The General Secretary)
Shahu Sooth Kapad Kamgar Sangh)
1242-E, Opp. Shri Shahu Chhatrapati)
Mills, Kolhapur.).. Petitioner

Versus

1) The State of Maharashtra)
through the Addl. Govt. Pleader)
High Court, A.S., Mumbai.)
2) The Deputy Commissioner of Labour)
and the Additional Registrar,)
Trade Union, Bungalow No.5)
Shivaji Nagar, Bombay Pune Road)
Pune-5.).. Respondents

Mr.H.D. Buch with Ms.B.B.Dholakia for the Petitioner.

Mr.S.K. Chinchalikar, Assistant Government Pleader,
for Respondent No.1.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 19TH AUGUST 2006

ORAL JUDGMENT :

. The Petitioner Union is a registered Trade Union under the Trade Unions Act, 1926. It is also the representative Union under the Bombay Industrial Relations Act, 1946 for the textile industry in Karveer Taluka. The Petitioner Union was collecting Re.1/- as subscription and Rs.4/- as donation per month from its members. A show cause notice was issued to the

Petitioner by Respondent No.2 since he was of the view that the Petitioner had increased its membership subscription, contrary to the provisions of their Constitution. The Petitioner replied to the show cause notice on 13th September 1995 pointing out that it was collecting Rs.4/- as donation to meet the increased expenses for running the Trade Union. It was also pointed out that the necessary amendment in the Constitution would be made by calling a General Body Meeting. A civil Suit was filed by four different employees of the Mills on 13th July 1995 being RCS No.259 of 1995 before the 4th Joint Civil Judge, Senior Division, Kolhapur. The Court granted permission to hold elections subject to certain conditions. This order was challenged by the Petitioner by filing Misc./Civil Appeal No.183 of 1995 before the District Court. The elections to the Executive Committee of the Union were stayed by the District Court.

2. On 11th January 1996, Respondent No.2 cancelled the registration of the Petitioner Union by exercising powers under Section 10 of the Trade Unions Act, 1926. The registration was cancelled since the Registrar was of the view that the subscription had been increased from Re.1/- to Rs.5/- without amendment of the Constitution. An Appeal was preferred by the Petitioner under Section 11 of the Trade Unions Act, 1926 being

Misc.Civil Appeal No.52 of 1996. The Additional District Judge, Kolhapur, stayed the order cancelling the registration of the Petitioner Union. It appears certain receipts issued to some of the members of the Petitioner Union indicated that the subscription obtained from these members was Rs.5/- per month and not Re.1/- as was the case put forth by the Petitioner. The Petitioner had explained that this amount was mentioned through inadvertence and that on a majority of the receipts issued for membership subscription the amount shown was Re.1/- per month and Rs.4/- for donations. An undertaking was given by the Petitioner on 29th January 1997 before the District Court that the General Body Meeting would be held within three months after the Executive Committee's elections were held. The Additional District Judge dismissed the Appeal preferred by the Petitioner when it was finally heard on 31st January 1997. Hence, the present Petition.

3. The learned Advocate for the Petitioner points out that after the Petition was admitted and interim relief was granted in terms of prayer clause (c) of the Petition. In my view, the impugned order is obviously incorrect. In the case of *Saraswat Co-op. Bank Employees Union vs. State of Maharashtra and others*, 1997 I LLJ 232, decided by the Division Bench of this Court, it has been held that there must be a wilful

contravention by a Trade Union before its registration can be cancelled. In the present case, the Petitioner had pointed out that due to inadvertence some of the receipts showed that Rs.5/- have been collected as subscription, although in fact it was Re.1/- as subscription and Rs.4/- as donation. An incorrect conclusion has been drawn by the learned Judge in the impugned judgment that Rs.5/- had been collected as donation. There is no finding recorded in the impugned order that there was a wilful breach of the provisions of the Constitution of the Petitioner Union.

4. The Petitioner has held its General Body Meeting and has amended its Constitution permitting collection of subscription and donation from its members. These amendments have been incorporated by the Registrar of Trade Unions in the Constitution of the Petitioner Union. In such circumstances, in my view, the Petition must be allowed as today there is no dispute that the Petitioner is entitled to collect Re.1/- as subscription and Rs.4/- as donation from its members.

4. Writ Petition allowed. Rule made absolute. No order as to costs.